1-30 P.M.

PERMISSION TO REMAIN ABSENT WAS GRANTED.

Chair's ruling *re* : breach of Privilege.

Mr. SPEAKER.—On the 2nd instant Hon'ble Member Sri K. Lakkappa gave notice of what he called a matter of privilege under rule 177 of the Rules of Procedure and Conduct of Business in the Assembly. His complaint was that in May this year, another Hon'ble Member of this House visited a Minister in his Chambers in order to discuss a matter of public interest that the Minister used rude and offensive language and that this has affected the privilege of the Member in question. As I found that no breach of privilege was involved in this allegation, I did not give my consent to raising this question and a letter was accordingly issued by the Secretary to Sri K Lakkappa.

The Leader of the Opposition and one or two other Hon'ble Members have subsequently requested me to reconsider my refusal to give consent and on the last occasion when this matter was raised on the floor of the House, the Leader of the Opposition has also referred to certain rulings of other State Legislatures.

Hon'ble Member Sri Muckannappa raised the issue as to whether it was competent on the part of the Speaker to review his own decision. I do not want to go into that question on the present occasion because, for reasons which will follow, I am clearly of the opinion that no breach of privilege is involved in the allegations contained in the notice.

The Powers, privileges and immunities of the Assembly are all contained in Acticle 194 of our Constitution. Under Clause (1), there shall be freedom of speech subject only to the provisions of the Constitution and to our Rules of Procedure. Clause (2) protects a Member from any action in any Court in respect of anything said or any vote given by him in the Assembly or in any Committee thereof. Clause (3) is to the effect that in other respects, the powers privileges and immunities of our Assembly and of its Members and Committees shall be those of the House of Commons of the Parliament of the United Kingdom and of its Members and Committees at the commencement of this Constitution.

We have therefore, to go to the House of Commons in order to ascertain the ambit of our privileges, either of the House or of Members individually. I have tried to examine, as far as possible, a large number of cases of privilege that arose in the House of Commons prior to the commencement of this Constitution. I have not come across a single instance where, on the facts as set out in the notice of Sri K. Lakkappa privilege has been either claimed or asserted. On the other hand it is quite clear that the basis on which privilege is founded would rule out any claim for privilege on the facts of the present case. This basis has been set out as follows in May's Parliamentary Practice :—"Parliamentary privilege is the some of the peculiar rights enjoyed by each House

collectively as a constituent part of the High Court of Parliament and by Members of each House individually without which they could not discharge their functions which exceed those possessed by other bodies or individuals". Later on is to be found the following statement "The distinctive mark of a privilege is its ancilliary character. The privileges of Parliament are rights which are absolutely necessary for the due execution of its powers. They are enjoyed by individual members because the House cannot perform its functions without unimpeded use of the services of its Members; and by each House for the protection of its Members and the vindication of its own authority and dignity. When any of these rights and immunities, both of the Members individually and of the assembly in its collective capacity, which are known by the general name of Privileges are disregarded or attacked by any individual or authority, the offence is called a breach of Privilege, and is punishable under the law of Parliament. Each House also claims the right to punish actions, which, while not breaches of any specific privilege, are offences against its authority or dignity such as disobedience of its legitimate commands or libels upon itself, its officers or its Members".

It will be seen from this statement about the basis of Parliamentary Privilege that it is only where any right enjoyed by a Member as essential for his service as a Member is affected or where any action offends against the authority or dignity of the House that a question of privilege will arise. In regard to individual Members it thus follows that the privileges apply to individual members only in so far as they are necessary in order that the House may freely performs its functions. It is also clear that where words considered offenive are used against a member, they must concern the character and conduct of the member in his capactity as member and the conduct or language on which the action is based must be against the performance of, or words uttered in the actual transaction of, the business of the House.

In a recent case, this question of what was actual transaction of business in the House or to use the technical expression 'a proceeding in Parliament', came up for consideration in relation to a letter which a member of the House of Commons wrote to a Minister about the administration of a nationalised industry. The Minister forwarded this letter of the Member to the Chairman of the Board, who thereupon threatened legal proceedings against the Member for libel. There was prolonged discussion in the House and in the Committee of Privileges. After obtaining the opinion of the Privy Council in relation to a particular aspect, this matter again came up before the House of Commons on 8th July 1958, on which date, after considerable debate, it was held that the letter of the Member was not a "proceeding in Parliament" and that therefore the letter of the Chairman of the Board to the Member threatening legal action did not constitute a breach of privilege. It is not necessary to go into more detailed examination of the case, because even on the facts set out on the present occasion, the discussion which is

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alleged to have taken place between the Hon'ble Member and the Minister cannot by any stretch of language be deemed to be in relation to actual Transaction of business of the House.

While it may be difficult to say that no act is within the scope of a Member's duties in the course of Parliamentary business, unless it is done in the House or a committee thereof, it must also be remembered that what is done outside the House should be related to what is to happen in the House if, in any hypothetical case, such action outside the House should attract privilege.

The Leader of the Opposition referred to a case that happened in Bihar. I wish the Leader of the Opposition had quoted the facts of the case in full. A Member had taken his daughter to a hospital for attention and one of the doctors was alleged to have used words against the member relating to his conduct on the floor of the Council and to have used words about Members generally in a derogatory manner. The Committee of Privileges heard the Member and the doctor and a majority of the Members of the Committee said that the allegations against the doctor could not be said to have been proved beyond doubt. Among the minority of the members, different opinions were expressed. Ultimately, the Committee recommended that the matter should be dropped, and this was accepted by the House. When the Committee recommended that the case against the doctor should not be proceeded with and the matter should be dropped, it follows that they were not clear about any application of privilege to that case. Secondly, the ground on which privilege was that claimed was that the doctor had used words which affected the dignity of a member and generally of members in the discharge of their duties on the floor of the House.

The other references cited by the leader of the Opposition are not in point.

I may also mention that even according to the notice of Privilege, the alleged incidence took place not within the pricincts of the House but in some place outside it.

In conclusion therefore I must hold that the consent refused to this notice will hold good. I may add that in regard to matters not strictly necessary for the due discharge of their duties or matters which affect the dignity and authority of the House, members should not and cannot claim any higher position than an average citizen (as mentioned in my ruling on a prior occasion).

Sri SANJEEVANATH AIKALA.—I request that a copy of the ruling is given to all the members.

Mr. SPEAKER.—It is not necessary to make a request on the floor of the House. I will see that a copy is given to the Members.